



Paper No. 5

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**JUL 17 2002**

**OFFICE OF PETITIONS**

In re Application of  
Herweck et al. :  
Application No. 10/045,544 : DECISION GRANTING  
Filed: October 26, 2001 : PETITION  
Attorney Docket No. ATA-333 :

This is a decision on the petition filed May 2, 2002, requesting that the above-identified application be accorded a filing date of October 26, 2001, with pages 16, 27, 30 and 49 of the specification as part of the original disclosure.

On October 26, 2001, applicants filed the above-identified application. However, on April 3, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) (Notice), stating that pages 16, 27, 30 and 49 of the specification appeared to have been omitted.

In response, on May 2, 2002, applicants filed, inter alia, the present petition, copies of pages 16, 27, 30 and 49 of the specification, and the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 55 pages of specification on October 26, 2001.

In the present petition, applicants request that the application, including pages 16, 27, 30 and 49 of the specification, be accorded a filing date of October 26, 2001, and the petition fee be refunded.

Upon review of the record, pages 16, 27, 30 and 49 of the specification, deposited on October 26, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2001, included pages 16, 27, 30 and 49 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 16, 27, 30 and 49 of the specification, was complete on filing and will be granted a filing date of October 26, 2001.

Accordingly, the petition is granted.

The Notice of April 3, 2002 was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be credited to Deposit Account No. 12-0080.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using the pages 1-15, 17-26, 28, 29, 31-48, and 50-55 of specification submitted on October 26, 2001, and pages 16, 27, 30 and 49 submitted on May 2, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

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